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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,039	03/06/2001	Pervez Hassan Sagärwala	93-C-091C1 (STMI01-00012)	7946

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EXAMINER

PRENTY, MARK V

ART UNIT

PAPER NUMBER

2822

9

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Advisory Action

Application No.

09/800,039

Applicant(s)

SAGARWALA et al.

Examiner

Prenty

Art Unit

2822



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Feb 24, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Feb 24, 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_
- Claim(s) objected to: \_\_\_\_\_
- Claim(s) rejected: \_\_\_\_\_
- Claim(s) withdrawn from consideration: \_\_\_\_\_
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

Mark Prenty  
Mark V. Prenty  
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The applicant's argument with respect to the rejection of claim 27 under 35 U.S.C. §112, first paragraph, is not persuasive. Specifically, by the applicant's own admission, one sidewall spacer 38 with an "inner" portion 32 and an "outer" portion 50, which is what the specification describes (see page 14, lines 6-9), is different than two sidewall spacers, which is what claim 27 recites. The specification thus does not contain "ample written support for the limitation at issue."

The applicant's argument with respect to the rejection of claims 1-7 and 28-39 under 35 U.S.C. §112, second paragraph, is not persuasive. Specifically, although the applicant alleges that the claim limitation "a minimum channel length required for the p-channel transistors ... depends primarily on doping concentration in the LDD regions," the disclosed p-channel transistors do not have LDD regions, and the "minimum channel length required for the p-channel transistors" instead actually depends on several variables (see the specification at page 10, lines 6-20).

The applicant's argument with respect to the further rejection of claims 30 and 35 under 35 U.S.C. §112, second paragraph, is not persuasive. Specifically, although the applicant notes "Dopant diffusion is well understood by those skilled in the relevant art," such does not mean that the claimed diffusion distance is definite.

The (further) rejection of dependent claims 5 and 6 under 35 U.S.C. §112, second paragraph, is withdrawn, if only because the recited "minimum" and "maximum" channel lengths are so broad as to read on any "reliably" and "efficiently" operating (i.e., functioning) MOS transistor.

The applicant's arguments with respect to the rejection of independent claim 27 under 35 U.S.C. §102 are not persuasive.

First, the applicant's observation that *Miyajima et al.* does not describe claim

27's "first and second sidewalls" feature is misplaced, because *Miyajima et al.* has not been applied against claim 27.

Furthermore, the applicant's allegation that *Chen* teaches removing its second sidewall remains misplaced, for the reasons of record (see the Office Action mailed November 8, 2002, hereby incorporated by reference, at the paragraph bridging pages 7 and 8).

The applicant's argument with respect to the rejection of independent claims 28 and 33 (and their dependent claims) under 35 U.S.C. §102 is not persuasive, because it relies on the applicant's unpersuasive argument with respect to the maintained rejection of those claims under 35 U.S.C. §112, second paragraph.

*Mark Prenty*  
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Primary Examiner